

# TONBRIDGE & MALLING BOROUGH COUNCIL

## OVERVIEW AND SCRUTINY COMMITTEE

29 January 2013

### Report of the Director of Finance

#### Part 1- Public

#### Matters for Recommendation to Council

#### **1 HOUSING AND COUNCIL TAX BENEFITS ANTI-FRAUD POLICY**

##### **Summary**

**This report invites Members to review the Housing and Council Tax Benefits Anti-Fraud Policy, to consider proposed amendments and recommend to Cabinet that the Council adopt the revised policy.**

##### **1.1 Introduction**

- 1.1.1 Members will recall that for a number of years there has been a Housing and Council Tax Anti-Fraud Policy in place. This policy is regularly reviewed to ensure that it is kept up to date.
- 1.1.2 Housing Benefits will gradually be replaced by the Universal Credit from October 2013, and Council Tax Benefits will cease from April 2013 when assistance with Council Tax bills will be provided under the local Council Tax Reduction Schemes.
- 1.1.3 However, Members will appreciate that there will still be a period after their introduction where these older benefits continue to be investigated. This policy needs to be updated to reflect recent changes introduced by Department for Work and Pensions (DWP) revised regulations with regard to sanctions.
- 1.1.4 Legislation is still awaited for guidance on how any fraudulent claims under the local Council Tax Reduction Schemes will be treated. When these regulations are enacted then it is likely that a separate policy will require drafting for those cases.
- 1.1.5 The introduction of the Single Fraud Investigation Service (SFIS) will also impact on the way that joint benefits are investigated and officers will be required to comply with SFIS guidelines for 2013-14.
- 1.1.6 Members will also be aware that there is a partnership arrangement with Gravesham Borough Council whereby this Council shares their Investigation Manager. One of the effects of this partnership is to share best practice and so the Anti-Fraud Policies at both authorities are mirrored to ensure consistency of approach.

- 1.1.7 This Policy is required to be considered by the Audit Committee prior to consideration by the Overview & Scrutiny Committee before it is recommended for adoption by the Council through Cabinet.
- 1.1.8 The Policy will be considered by Audit Committee at their meeting of 28 January 2013 and Members will be given a verbal update on details of any amendments recommended by the Audit Committee.

## **1.2 Amendments**

- 1.2.1 The main amendments to the Policy take place in the Prosecution Section. There have been new regulations in respect of Administrative Penalties for offences after 8 May 2012.
- 1.2.2 For overpayments over £700, the penalty is set at 50% of the fraudulent overpayment up to a maximum amount of £2,000. Offences that began prior to this date remain at 30% of the fraudulent overpayment. The administrative penalty is only applied to the amount of the overpayment than can be proved as fraudulent. If a penalty is refused then the Council must consider prosecution for this amount.
- 1.2.3 The DWP have had a loss of benefit provision in place for a number of years where they could disqualify a person from receiving benefits for a 13 week period if they are convicted of benefit fraud twice in a five year period.
- 1.2.4 This provision was extended by the Welfare Reform Act 2009 to include a four-week loss of benefit for all offences of benefit fraud which result in a sanction. Benefits can be withdrawn, or reduced by 20% or 40% during this disqualification period.
- 1.2.5 Where there are more than two proven offences in this five-year period then Benefits can be withdrawn, or reduced by 20% or 40% for a period of six-months.
- 1.2.6 This loss of provision was extended to include Housing and Council Tax Benefit by the Social Security (Loss of Benefit) Provisions Amendment Regulations 2010 for all offences that occurred on or after 1 April 2010.
- 1.2.7 Where there is a case where Housing and/or Council Tax Benefit are the only benefits in payments that meet these circumstances then the Council must notify the DWP who will determine whether the Council should apply a loss of provision and at what level any loss should be.
- 1.2.8 Any appeals against a loss of benefits provision decision must be referred to the DWP for consideration.
- 1.2.9 A copy of the revised Housing and Council Tax Benefits Anti-Fraud Policy including the revised Prosecution Policy is attached to this report. **[Annex 1]**

### 1.3 Legal Implications

1.3.1 The Prosecution Policy requires updating to include the latest sanction provisions.

### 1.4 Financial and Value for Money Considerations

1.4.1 If sanctions were challenged because they were not included in the prosecution policy this could have a financial implication dealing with any challenges and a loss of sanction income.

### 1.5 Risk Assessment

1.5.1 All potential sanction outcomes should be transparent. A revision of the policy ensures that these revisions are available for consideration.

### 1.6 Equality Impact Assessment

1.6.1 All Council decisions regarding the outcome of investigations are considered on an individual basis and take circumstances of the offence and the offender into account. Any loss of benefit provision that affects a Council administered benefit is determined by the DWP and is beyond any influence of the Council.

### 1.7 Recommendations

1.7.1 It is **RECOMMENDED** that Members review the updated Benefits Anti-Fraud Policy and, subject to any amendments, propose through Cabinet that Council adopt the revised policy.

Background papers:

contact: David Buckley

Benefit Regulations

Sharon Shelton  
Director of Finance

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Revision of legal changes. The DWP discretion on loss of benefit provision to claimants is beyond the control of the Council

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	Revision of legal changes. The DWP discretion on loss of benefit provision to claimants is beyond the control of the Council
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		All Council decisions regarding potential sanction action are dealt with on an individual basis and take account of circumstances and national guidance.

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*